

## (Caption of Case)

Application of United Utility Companies, Inc.  
for Adjustment of Rates and Charges and  
Modifications to Certain Terms and Conditions  
for the Provision of Water and Sewer Service

BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA

## COVER SHEET

DOCKET  
NUMBER: 2009 - 479 - WS

(Please type or print)

Submitted by: Benjamin P. Mustian, EsquireSC Bar Number: 68269Address: Post Office Box 8416Telephone: 803-252-3300Columbia, SC 29202Fax: 803-771-2410

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NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

## DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition☐ Request for item to be placed on Commission's Agenda expeditiously☒ Other: \_\_\_\_\_

## INDUSTRY (Check one)

- ☐ Electric  
☐ Electric/Gas  
☐ Electric/Telecommunications  
☐ Electric/Water  
☐ Electric/Water/Telecom.  
☐ Electric/Water/Sewer  
☐ Gas  
☐ Railroad  
☐ Sewer  
☐ Telecommunications  
☐ Transportation  
☐ Water  
☒ Water/Sewer  
☐ Administrative Matter  
☐ Other: \_\_\_\_\_

## NATURE OF ACTION (Check all that apply)

- |  |  |  |
|--|--|--|
| <input type="checkbox"/> Affidavit                 | <input type="checkbox"/> Letter                            | <input type="checkbox"/> Request                   |
| <input type="checkbox"/> Agreement                 | <input type="checkbox"/> Memorandum                        | <input type="checkbox"/> Request for Certification |
| <input type="checkbox"/> Answer                    | <input checked="" type="checkbox"/> Motion                 | <input type="checkbox"/> Request for Investigation |
| <input type="checkbox"/> Appellate Review          | <input type="checkbox"/> Objection                         | <input type="checkbox"/> Resale Agreement          |
| <input type="checkbox"/> Application               | <input type="checkbox"/> Petition                          | <input type="checkbox"/> Resale Amendment          |
| <input type="checkbox"/> Brief                     | <input type="checkbox"/> Petition for Reconsideration      | <input type="checkbox"/> Reservation Letter        |
| <input type="checkbox"/> Certificate               | <input type="checkbox"/> Petition for Rulemaking           | <input type="checkbox"/> Response                  |
| <input type="checkbox"/> Comments                  | <input type="checkbox"/> Petition for Rule to Show Cause   | <input type="checkbox"/> Response to Discovery     |
| <input type="checkbox"/> Complaint                 | <input type="checkbox"/> Petition to Intervene             | <input type="checkbox"/> Return to Petition        |
| <input type="checkbox"/> Consent Order             | <input type="checkbox"/> Petition to Intervene Out of Time | <input type="checkbox"/> Stipulation               |
| <input type="checkbox"/> Discovery                 | <input type="checkbox"/> Prefiled Testimony                | <input type="checkbox"/> Subpoena                  |
| <input type="checkbox"/> Exhibit                   | <input type="checkbox"/> Promotion                         | <input type="checkbox"/> Tariff                    |
| <input type="checkbox"/> Expedited Consideration   | <input type="checkbox"/> Proposed Order                    | <input type="checkbox"/> Other: _____              |
| <input type="checkbox"/> Interconnection Agreement | <input type="checkbox"/> Protest                           |  |
| <input type="checkbox"/> Interconnection Amendment | <input type="checkbox"/> Publisher's Affidavit             |  |
| <input type="checkbox"/> Late-Filed Exhibit        | <input type="checkbox"/> Report                            |  |

Print Form

Reset Form

**WILLOUGHBY & HOEFER, P.A.**

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March 3, 2010

**VIA HAND DELIVERY**

B. Randall Dong, Esquire  
Staff Counsel/Commission Hearing Officer  
**Public Service Commission of South Carolina**  
101 Executive Center Drive  
Columbia, South Carolina 29210

RE: Application of United Utility Companies, Inc. for adjustment of rates and charges and modifications to certain terms and conditions for the provision of water and sewer service. Docket No.: 2009-479-WS

Dear Mr. Dong:

Enclosed for filing please find the original and five (5) copies of the motion of United Utility Companies, Inc. ("UUC" or "Applicant") to strike certain portions of the pre-filed direct testimony of North Greenville University ("NGU") witness Dr. James Epting in the above-referenced matter. As the motion reflects, it is based upon the grounds that Dr. Epting's testimony attempts to relitigate matters which have previously been determined by this Commission in Docket No. 2000-210-W/S.<sup>1</sup>

As you are aware, UUC is currently required to pre-file testimony on Wednesday, March 10, 2010, rebutting issues raised in the pre-filed direct testimony of the other parties of record. Given the nature of the within motion and the current time limitations, UUC respectfully requests that you, in your capacity as hearing officer, issue a directive ruling on this motion by Monday, March 8, 2010.<sup>2</sup> Alternatively, the Applicant requests that a special meeting of the Commission be convened to address UUC's pending motions not later than 24 hours after notice of same may be posted in accordance with R.

<sup>1</sup> See Applicant's January 25, 2010, Motion to Strike, its January 25, 2010, Answer to NGU's Petition to Intervene, and its February 25, 2010, Reply to NGU's Response to Applicant's Motion to Strike.

<sup>2</sup> UUC notes that, in your capacity as Hearing Officer in Docket No. 2006-107-W/S, you issued a directive precluding NGU from relitigating issues which have been previously been decided by the Commission. See Hearing Officer Directive, dated August 1, 2006, in Docket No. 2006-107-W/S.

B. Randall Dong

March 3, 2010

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103-814 (Supp. 2008) and S.C. Code Ann. § 30-4-80(a) (1991).

I would appreciate your acknowledging receipt of this letter and the attached document by date-stamping the extra copy that is enclosed and returning it to me via my courier.

Thank you in advance for your consideration of this request. If you have any questions or if you need any additional information, please do not hesitate to contact us.

Sincerely,

**WILLOUGHBY & HOEFER, P.A.**

A handwritten signature in black ink, appearing to read "Ben Mustian", with a long horizontal flourish extending to the right.

Benjamin P. Mustian

BPM/cf  
Enclosures

cc: Nanette S. Edwards, Esquire  
Duke K. McCall, Jr., Esquire  
William H. Jordan, Esquire  
Janet Marks

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**

**DOCKET NO. 2009-479-W/S**

IN RE:

Application of United Utility Companies,  
Inc. for adjustment of rates and charges  
and modifications to certain terms  
and conditions for the provision of  
water and sewer service.

**MOTION TO STRIKE  
PORTIONS OF TESTIMONY**

Applicant, United Utility Companies, Inc., ("Applicant" or "UUC"), pursuant to S.C. Code Ann. Regs. R. 103-829 (Supp.2008), hereby moves to strike portions of the direct testimony of Dr. James Epting, submitted on behalf of North Greenville University ("NGU"), which attempt to relitigate issues which have previously been decided by the Public Service Commission of South Carolina ("Commission"). In support thereof, Applicant would respectfully show as follows:

1. The Commission should not permit portions of this testimony into the record of evidence in the instant docket inasmuch as it attempts to relitigate issues which have been decided by the Commission on numerous occasions. On January 25, 2010, UUC filed with the Commission a Motion to Strike portions of the Petition to Intervene filed by NGU in this matter. The motion asserted, *inter alia*, that several issues raised by NGU in its Petition had previously been litigated and decided by the Commission. Specifically, UUC stated that disputes concerning the July 9, 2001, contract with NGU had been ruled upon in Commission Order No. 2004-253 issued on May 19, 2004 in Docket No. 2000-210-W/S. Furthermore, UUC demonstrated that, in Docket No. 2006-107-W/S, the Hearing Officer appointed in that matter

rejected a similar attempt by NGU to relitigate previously decided matters and requested that the Commission should again deny any attempt to relitigate these matters pursuant to the principles of *res judicata*.


2. The pre-filed direct testimony of Dr. Epting addresses issues regarding the July 9, 2001, contract and the transfer of the wastewater treatment system serving NGU – the very issues referenced by UUC in its Motion to Strike and decided by the Commission in Order No. 2004-253. Therefore, the following testimony should be stricken:

Direct Testimony of Dr. James Epting

1. Page 2, line 3 – Page 3, line 15;
2. Page 7, lines 21-23.

3. In further support of this motion, Applicant incorporates by reference its January 25, 2010, Motion to Strike, its January 25, 2010, Answer to NGU's Petition to Intervene, and its February 25, 2010, Reply to NGU's Response to Applicant's Motion to Strike.

WHEREFORE, having fully set forth its motion, Applicant requests that the Commission issue an order striking the identified portions of the testimony and granting Applicant such other and further relief as is just and proper.



John M.S. Hoefer  
Benjamin P. Mustian  
**WILLOUGHBY & HOEFER, PA**  
Post Office Box 8416  
Columbia, South Carolina 29202-8416  
803-252-3300

Attorneys for Applicant

Columbia, South Carolina  
This 3<sup>rd</sup> day of March, 2010

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**

**DOCKET NO. 2009-479-W/S**

IN RE:

Application of United Utility Companies, )  
Inc. for adjustment of rates and charges )  
and modifications to certain terms )  
and conditions for the provision of )  
water and sewer service. )

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**CERTIFICATE OF SERVICE**

This is to certify that I have caused to be served this day one (1) copy of the **Motion to Strike Portions of Testimony** by placing same in the care and custody of the United States Postal Service with first class postage affixed thereto and addressed as follows:

Nanette S. Edwards, Esquire  
**Office of Regulatory Staff**  
Post Office Box 11263  
Columbia, South Carolina 29211

Duke K. McCall, Jr., Esquire  
William H. Jordan, Esquire  
**Smith Moore Leatherwood, LLP**  
Post Office Box 87  
Greenville, SC 29602

Janet P. Marks  
358 Fairwood Boulevard  
Union, SC 29379

  
\_\_\_\_\_  
Clark Fancher

Columbia, South Carolina  
This 3<sup>rd</sup> day of March, 2010.